

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHIL WYATT

Appeal No. 2004-1826
Application No. 09/544,509

ON BRIEF

MAILED

MAR 18 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before OWENS, RUGGIERO, and DIXON, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 1-20, which are all of the claims in the application.

THE INVENTION

The appellant claims a method and system for disclosing, in response to a query related to a medical condition, a medical resource, such as a doctor or a hospital, that treats the medical condition queried. Claim 1, which claims the method, is illustrative:

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1. A method for matching medical condition information with a medical resource, the method comprising the steps of:

 providing a computer network having a plurality of remote computers and at least one remote server wherein the remote server hosts a website;

 accessing the website via an individual remote computer on the computer network;

 inputting a query into the website wherein the query relates to a medical condition;

 providing a database on the remote server wherein the database stores information relating to a plurality of medical conditions; and

 searching the database for the information wherein the search is based on the query input into the database and further wherein the search discloses a medical resource that treats the medical condition queried.

THE REFERENCES

Siegrist, Jr. et al. (Siegrist)	5,652,842	Jul. 29, 1997
Schlueter, Jr. et al. (Schlueter)	5,974,124	Oct. 26, 1999
Iliff	6,022,315	Feb. 8, 2000

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows:
claims 1-11 and 13-20 over Iliff in view of Schlueter, and
claim 12 over Iliff in view of Schlueter and Siegrist.

OPINION

We reverse the aforementioned rejections. We need to address only the independent claims, i.e., claims 1 and 15.

Claims 1 and 15 require a database search that discloses a medical resource that treats a medical condition.

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Iliff discloses a medical diagnosis and treatment advice system that provides medical advice for approximately one hundred of the most commonly encountered problems in general practice and emergency medicine, and may provide information to the public on any number of other medical topics (col. 4, lines 25-30). If the system determines that a serious medical condition exists, it plays a message that advises the patient to seek immediate medical attention and ends the evaluation process (col. 36, lines 9-13).

Schlueter seeks "to gather, organize, and present data which is collected over a long period of time in a way that best facilitates accurate diagnosis and proper treatment of such medical conditions which require long-term profiling of medical readings" (col. 2, lines 13-17). "Once the information is present in the database, all the medical practitioner needs to do is access the information via a network, telephone, or Internet connection and software capable of presenting processed data in a format that facilitates diagnosis, such as a graph or a chart" (col. 3, lines 13-17).¹

¹ Siegrist, which is applied to a dependent claim, discloses a computer-based method for comparing a service provider, such as a hospital, to its peers in several areas of competition for a particular consumer group (col. 1, lines 46-52; col. 2, lines 40-44).

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The examiner argues that Iliff discloses "searching the database for the information wherein the search or request is based on the query or search request input into the database and further wherein the search discloses a medical resource that treats the medical condition queried (Iliff, Figure 31, Items 2510 and 2546, column 36, lines 9-13, column 60, lines 57-63, column 75, lines 18-28)" (answer, pages 4-5). Those portions of Iliff teach that the system provides medical advice which can be recommended tests or a recommendation that the patient seek immediate medical attention, but do not teach that the system discloses a medical resource that treats a medical condition.

The examiner argues that "[t]he access and retrieval of information from the database on request, as recited by Iliff, reads on searching the database for the information wherein the search is based on the query input into the database and further wherein the search discloses a medical resource that treats the medical condition queried" (answer, page 13). This argument is not well taken because the advice retrieved from Iliff's database does not treat a medical condition.

To establish a *prima facie* case of obviousness of the claimed invention the examiner needs prior art that discloses, or would have fairly suggested, to one of ordinary skill in the art,

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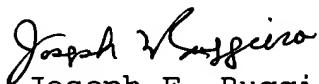
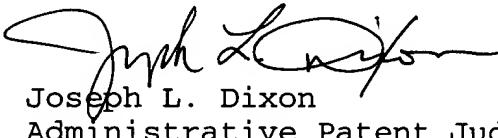
a system that discloses, in response to a query related to a medical condition, a medical resource, such as a doctor or a hospital, that treats the medical condition queried, and the examiner has not provided such prior art.

For the above reasons we conclude that the examiner has not carried the burden of establishing a *prima facie* case of obviousness of the appellant's claimed invention.

DECISION

The rejections under 35 U.S.C. § 103 of claims 1-11 and 13-20 over Iliff in view of Schlueter, and claim 12 over Iliff in view of Schlueter and Siegrist, are reversed.

REVERSED

Terry J. Owens)
Terry J. Owens)
Administrative Patent Judge)
)
)
Joseph F. Ruggiero)
Administrative Patent Judge)
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Joseph L. Dixon)
Administrative Patent Judge)

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